IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 9106 of 2007(H)

OS.348/1999 of PRL.SUB COURT,TRIVANDRUM
.....

PETITIONER:

K. MAHESHKUMAR, S/O. KRISHNA KURUP,
EDAKKATTU HOUSE, HARIPPAD, ALAPPUZHA.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENT:

PAPPACHAN, S/O. PATHROSE,
KOKKOTTUKONATHU VEEDU, NJANDOORKONAM,
ULIYAZHATHURA VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.RAM MOHAN.G.
SRI.G.P.SHINOD
SRI.MANU V.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBIT:

EXT.P1: **CERTIFIED COPY OF THE ORDER DTD. 23/02/2007 IN I.A.NO. 4361 OF 2006 IN O.S.NO.348 OF 1999 on the FILE OF THE PRINCIPAL SUB JUDGE, THIRUVANANTHAPURAM.**

/TRUE COPY/

KSS

M.N. KRISHNAN, J.

WP(C)No. 9106 OF 2007 H

Dated this the 28th May, 2007.

JUDGMENT

This writ petition is filed to quash Ext.P1 order. The writ petitioner moved an application for setting aside an ex parte decree in a suit for damages and the trial court set aside the ex parte decree on condition that the writ petitioner pays an amount of Rs.5,000/- within a period of 20 days or in the event of non-payment the petition to stand automatically dismissed. The other side also had entered appearance. The suit is one for damages and there is serious contentions between the parties. Considering the nature of contentions between the parties, I feel just and proper to give an opportunity to the defendant to contest the case on merits and for that purpose I am inclined to reduce the cost from Rs.5,000/- to Rs.3,000/-. Therefore this writ petition is disposed of modifying the order of the Subordinate Judge and by directing the writ petitioner herein to pay a cost of Rs.3,000/- (Rupees three thousand only) to respondent or the counsel appearing for the respondent within a period of three weeks from today failing which the order under challenge shall stand confirmed.

M.N.KRISHNAN
Judge

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